

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

ALLTRU FEDERAL CREDIT UNION, f/k/a,)	
1 st FINANCIAL FEDERAL CREDIT UNION)	
Plaintiff,)	
)	
v.)	Case No. _____
)	(Removed from the Circuit Court of
)	St. Charles County, Missouri, Case
)	No. 2111-CC00871)
NEW YORK MARINE AND GENERAL)	
INSURANCE COMPANY)	
)	
Defendant.)	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE, that pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant New York Marine and General Insurance Company (“NY Marine” and “Defendant”), submits Notice of Removal of this action from the Circuit Court of St. Charles County, Missouri – where this case is currently pending under the case style of *Alltru Federal Credit Union, f/k/a 1st Financial Federal Credit Union v. New York Marine and General Insurance Company*, Case No. 2111-CC00871, to the United States District Court for the Eastern District of Missouri. The grounds for removal are set forth below, as required by 28 U.S.C. §1446.

I. INTRODUCTION

1. Defendant desires to exercise its rights under the provisions of 28 U.S.C. §§ 1441 *et seq.*, to remove this case from the Circuit Court of St Charles County, Missouri to the United States District Court for the Eastern District of Missouri. 28 U.S.C. § 1441(a) provides in pertinent part:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place

where such action is pending.

2. This civil action has not been tried. Plaintiff filed its Petition for Damages on September 29, 2021. The Missouri Director of Insurance, 301 W. High Street, Room 530, Jefferson City, MO 65101, received a copy of the Summons and Petition on October 13, 2021. Defendant NY Marine hereby reserves all objections, arguments, and defenses to Plaintiff's Petition and will file a responsive pleading in accordance with Rule 81 of the Federal Rules of Civil Procedure.

II. NOTICE OF REMOVAL IS TIMELY

3. The time in which Defendants are required by the laws of the State of Missouri, by the Missouri Rules of Civil Procedure, or by the Rules of the Circuit Court of St. Charles County, to move, answer or otherwise plead in response to Plaintiff's Petition has not elapsed.

4. In accordance with the requirements of 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after the receipt by any Defendant, through service, of a copy of the initial pleading setting forth the claim for relief on which Plaintiff's action is based. Defendant meets this requirement.

5. Consequently, Defendant has timely filed this Notice of Removal.

III. DIVERSITY JURISDICTION EXISTS

6. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a) for diversity jurisdiction because there is complete diversity between the Plaintiff and the Defendant, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

7. Plaintiff 1st Financial Credit Union ("1st Financial"), with a principal place of business in St. Charles County, is a citizen of the State of Missouri. Defendant NY Marine is

incorporated in the State of New York with its principal place of business at 412 Mt. Kemble Avenue, Suite 300C Morristown, New Jersey 07960. Complete diversity of citizenship therefore exists under 28 U.S.C. §§ 1332.

8. The Amount in Controversy threshold set by 28 U.S.C. § 1332(a) is satisfied because Plaintiff seeks damages in excess of \$75,000 as evidenced by Plaintiff's Petition details that Plaintiff made a demand for Defendant "to tender the sum of \$9,750,000 to be offset by contributions from " and that in addition Plaintiff seeks indemnity damages, damages "for bad faith", damages "for vexatious refusal to pay under Mo. Rev. Stat. §§375.296 and 375.420... and for such other and further relief as the Court deems just and proper". *See* Plaintiff's Petition at ¶ 52, 71 and referenced Exhibit D, 73, and Prayers for all Counts of Plaintiff's Petition.

9. Based upon the foregoing, removal is proper as the parties are completely diverse and the amount of the Plaintiff's claims exceed \$75,000. Therefore, this court has original jurisdiction pursuant to 28 U.S.C. § 1332.

IV. REMOVAL TO THIS DISTRICT IS PROPER

10. Pursuant to 28 U.S.C. §§ 1441 *et seq.*, removal is proper to the district which embraces the place where the action is currently pending. Here, the right exists to remove this case from the Circuit Court of St. Charles County, Missouri to the United States District Court for the Eastern District of Missouri, which embraces the place where the action is currently pending. Therefore, removal from the Circuit Court to Federal Court of Missouri is proper under 28 U.S.C. §1441(a).

V. MISCELLANEOUS

11. There is only one Defendant, therefore there are no other Defendants to join in this Notice of Removal.

12. Written notice of the filing of this Notice of Removal will be promptly served on counsel for all adverse parties as required by 28 U.S.C. §1446(d).

13. A true and correct copy of this Notice of Removal will be promptly filed with the Clerk of the Circuit Court of St. Charles County, Missouri as required by 28 U.S.C. §1446(d) and served on Plaintiff.

14. Defendant reserves the right to amend or supplement this Notice of Removal, and Defendant reserves all defenses.

15. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served on Defendants, including a copy of the Petition bearing Case No. 2111-CC00871, is attached to this Notice of Removal as Exhibit A.

WHEREFORE, further proceedings in this action should proceed in the United States District Court for the Eastern District of Missouri, where it is now pending; that this Court accept jurisdiction of this action; and that this action be placed on the docket of this Court for further proceedings, just as though this case had originally been instituted in this Court.

Dated: November 10, 2021

Respectfully submitted,

**FOLAND, WICKENS, ROPER,
HOFFER & CRAWFORD, P.C.**

/s/ Wm. Clayton Crawford

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*Attorneys for Defendant New York Marine
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CERTIFICATE OF SERVICE

I hereby certified that the above and foregoing document was filed electronically with the above-captioned court, and a copy sent via electronic mail on this 10 day of November, 2021 to:

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/s/ Wm. Clayton Crawford
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